Patent Application
Attorney Docket No.: 56130.000064
Client Reference No.: 12693RXUS01U

REMARKS

The Office Action dated August 9, 2006 and the Advisory

Action dated November 13, 2006, have been received and carefully

considered. Reconsideration of the outstanding rejections in

the present application is also respectfully requested based on

the following amendments and remarks.

At the outset, the undersigned thanks the Examiner for the

courtesies extended during the interview conducted on November

21, 2006, during which agreement was reached on claim amendments

that would overcome the cited references. Applicant has amended

the claims as agreed by amending independent claims 1 and 11 and

adding new dependent claims 23 and 24.

I.   THE OBVIOUSNESS REJECTION OF CLAIMS 1-22

On page 2 of the Office Action, claims 1-22 were rejected

under 35 U.S.C. § 103(a) as being unpatentable over Tsuji et al.

(U.S. Patent No. 6,397,258) in view of Naegeli et al. (U.S.

Patent No. 6,574,797). This rejection is hereby respectfully

traversed.

As stated in MPEP § 2143, to establish a prima facie case

of obviousness, three basic criteria must be met. First, there

must be some suggestion or motivation, either in the references

themselves or in the knowledge generally available to one of

ordinary skill in the art, to modify the reference or to combine

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reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, not in applicant's disclosure. In re Vaeck, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991).

Although Applicant does not agree with the pending rejection, Applicant has nonetheless amended the claims to clarify the claimed systems and methods and better distinguish the cited references. For example, Applicant has amended independent claim 1 to incorporate the limitations of dependent claims 7 and 8, now canceled. Independent claim 1 now recites, in part, the step of "determining a delay for the at least one data transmission based on the maximum bandwidth specified, wherein the step of determining a delay determines the delay based on at least a data packet size, bandwidth, and number of sessions, and wherein the step of determining a delay determines the delay from a formula of: $D = 1000 * (1 / (B * 1000000)) * P * 8 * S$ where D is the delay in milliseconds, B is a bandwidth in megabits per second, P is a data packet size in bytes, and S is a maximum number of sessions."

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Independent claim 11 has been amended to recite related subject matter to the above-identified independent claim, and is therefore allowable for reasons similar to those given above. In particular, independent claim 11 has been amended to recite the limitations of dependent claims 17 and 18, now canceled.

Further, Applicant has added new dependent claims 23 and 24 further specifying that the limitations of independent claims 1 and 11 respectively involve data transmissions from a server to a cable modem.

Claims 2-10, 12-22 are dependent upon either independent claim 1 or 11. Thus, since independent claims 1 and 11 should be allowable as discussed above, claims 2-10, 12-22 should also be allowable at least by virtue of their dependency on independent claim 1 or 11. Moreover, these claims recite additional features which are not claimed, disclosed, or even suggested by the cited references taken either alone or in combination. For example, dependent claim 2 recites "wherein the server comprises a trivial file transfer protocol." Applicant respectfully submits that none of the cited references -- alone or in combination -- teach or suggest the method of claim 1 wherein the "wherein the server comprises a trivial file transfer protocol."

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In view of the foregoing, it is respectfully requested that the aforementioned obviousness rejection of claims 1-22 be withdrawn.

II. CONCLUSION

In view of the foregoing, it is respectfully submitted that the present application is in condition for allowance, and an early indication of the same is courteously solicited. The Examiner is respectfully requested to contact the undersigned by telephone at the below listed telephone number, in order to expedite resolution of any issues and to expedite passage of the present application to issue, if any comments, questions, or suggestions arise in connection with the present application.

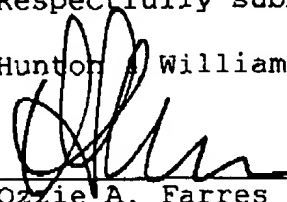To the extent necessary, a petition for an extension of time under 37 CFR § 1.136 is hereby made.

Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account No. 50-0206, and please credit any excess fees to the same deposit account.

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Respectfully submitted,

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APPENDIX A

1 (**Currently Amended**). A method for data transmissions from a server, comprising the steps of:

a) configuring a maximum bandwidth for at least one data transmission;

b) determining the maximum bandwidth for the at least one data transmission;

c) determining a delay for the at least one data transmission based on the maximum bandwidth specified, wherein the step of determining a delay determines the delay based on at least a data packet size, bandwidth, and number of sessions, and wherein the step of determining a delay determines the delay from a formula of:

$$D = 1000 * (1 / (B * 1000000)) * P * 8 * S$$

where D is the delay in milliseconds, B is a bandwidth in megabits per second, P is a data packet size in bytes, and S is a maximum number of sessions; and

d) transmitting the at least one data transmission after the delay has expired.

2 (Original). The method of claim 1, wherein the server comprises a trivial file transfer protocol server.

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3 (Original). The method of claim 1, further comprising the step of:

e) enabling the user to specify a maximum number of sessions that may be operated substantially simultaneously.

4 (Original). The method of claim 3, wherein the delay is based on at least the maximum number of sessions specified.

5 (Original). The method of claim 1, wherein the delay comprises a time delay.

6 (Original). The method of claim 1, wherein the delay is based on at least a number of data transmissions.

7 (Canceled).

8 (Canceled).

9 (Original). The method of claim 1, wherein the step of configuring configures the maximum bandwidth based on a desired bandwidth specified by a user.

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10 (Original). The method of claim 1, wherein the step of configuring configures the maximum bandwidth based on a predetermined value.

11 (**Currently Amended**). A system for data transmissions from a server, comprising:

a maximum bandwidth configuring module that configures a maximum bandwidth for at least one data transmission;

a maximum bandwidth determining module that determines the maximum bandwidth for the at least one data transmission;

a delay determining module that determines a delay for the at least one data transmission based on the maximum bandwidth specified, wherein the delay determining module determines the delay based on at least a data packet size, bandwidth, and number of sessions, and wherein the delay determining module determines the delay from a formula of:

$D = 1000 * (1 / (B * 1000000)) * P * 8 * S$

where D is the delay in milliseconds, B is a specified bandwidth in megabits per second, P is a data packet size in bytes, and S is a maximum number of sessions; and

a transmitting module that transmits the at least one data transmission after the delay has expired.

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12 (Original). The system of claim 11, wherein the server is a trivial file transfer protocol server.

13 (Original). The system of claim 11, further comprising a session specifying module that enables the user to specify a maximum number of sessions that may be operated substantially simultaneously.

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